

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

SEAN F. GHOENS,

Plaintiff,

v.

CIVIL ACTION NO. 5:08-cv-00332

A. GRANDJEAN,

Defendant.

**ORDER**

The Court has reviewed Plaintiff's Complaint [Docket 2]. By Order [Docket 3] entered on May 21, 2008, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

On June 1, 2011, Judge VanDervort ordered Plaintiff to either pay the \$350 filing fee or file an updated Application to Proceed *in Forma Pauperis* due to his release from prison. Plaintiff was further ordered to amend his Complaint by July 1, 2011, to specifically set forth his constitutional claims and state specific facts as to how Defendant violated his constitutional rights. Plaintiff was notified that failure to amend his Complaint and either pay the filing fee or file an updated Application would result in a recommendation of dismissal of his case.

On July 12, 2011, the Magistrate Judge submitted Proposed Findings and Recommendation ("PF & R") [Docket 7] wherein he noted that Plaintiff did not respond to the June 1, 2011 Order, and

determined that he has failed to take any steps to prosecute this action. It is recommended that this Court dismiss Plaintiff's Complaint and remove this matter from the Court's docket.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); see also *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir.1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982). Objections to the PF & R were due by July 29, 2011. Plaintiff has yet to file any objections.

Accordingly, the Court **ORDERS** that the recommendation of the Magistrate Judge as contained in the Proposed Findings and Recommendation be **ADOPTED** and **ORDERS** that Plaintiff's Complaint be **DISMISSED WITH PREJUDICE** and that this matter be removed from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 3, 2011



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA